

SENATE, No. 294

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator DIANE B. ALLEN

District 7 (Burlington and Camden)

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:

**Senators Ciesla, Singer, Kyrillos, A.R.Bucco, Cardinale, Weinberg,
S.Kean, Van Drew, Connors, Bateman, Baroni, Beck, T.Kean and Sweeney**

SYNOPSIS

"Jessica Lunsford Act;" concerns sentencing of sex offenders and persons who harbor them; requires electronic monitoring for certain sex offenders and creates child protection zones.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 **AN ACT** concerning certain sex offenders, supplementing Title 2B
2 of the New Jersey Statutes, chapter 4 of Title 30 of the Revised
3 Statutes, P.L.1994, c.133 (C.2C:7-1 et seq.), and amending
4 N.J.S.2C:14-2 and N.J.S.2C:29-3.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. (New section) This act shall be known and may be cited as
10 the "Jessica Lunsford Act."

11

12 2. (New section) a. The Administrative Director of the Courts
13 shall establish and implement an electronic monitoring system
14 utilizing global positioning system technology for persons who
15 have been charged with a sex offense as defined in section 2 of
16 P.L.1994, c.133 (C.2C:7-2) and where the victim is under 18 years
17 of age. The monitoring requirement shall be imposed by the judge
18 at the time that bail is imposed, and the person shall be subject to
19 the requirement until he is acquitted of or incarcerated for the sex
20 offense.

21 b. The director may promulgate guidelines to effectuate the
22 provisions of this act.

23 c. A person who fails to comply with the requirements of
24 electronic monitoring imposed pursuant to subsection a. of this
25 section is guilty of a crime of the third degree.

26

27 3. (New section) a. The Chairman of the State Parole Board
28 shall establish and implement an electronic monitoring system
29 utilizing global positioning system technology that tracks all
30 persons convicted of or adjudicated delinquent for a sex offense as
31 defined in section 2 of P.L.1994, c.133 (C.2C:7-2) whose risk of
32 reoffense is determined to be high pursuant to section 3 of
33 P.L.1994, c.128 (C.2C:7-8) and where the victim of the sex offense
34 was under 18 years of age. The system shall provide for lifetime
35 tracking of such offenders upon their release from incarceration.

36 b. The chairman may promulgate guidelines to effectuate the
37 provisions of this act.

38 c. A sex offender who fails to comply with the requirements of
39 electronic monitoring shall be guilty of a crime of the third degree.

40

41 4. (New section) a . It shall be a crime of the fourth degree for a
42 person subject to the registration requirements set forth in P.L.1994,
43 c.133 (C.2C:7-1 et seq.) whose risk of re-offense has been assessed
44 as high pursuant to section 3 of P.L.1994, c.128 (C.2C:7-8) to
45 reside within 2,500 feet of the real property comprising an

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 elementary or secondary school, child care center as defined in
2 section 3 of P.L.1983, c.492 (C.30:5B-3) or playground as defined
3 in section 1 of P.L.1999, c.50 (C.52:27D-123.9), which shall be
4 known as Child Protection Zones, unless:

5 (1) The person is required to serve a sentence at a jail, prison,
6 juvenile facility or other correctional institution or facility which is
7 located within 2,500 feet of the real property comprising an
8 elementary or secondary school, child care center or playground;

9 (2) The person is receiving treatment at a mental health facility
10 located within 2,500 feet of the real property comprising an
11 elementary or secondary school, child care center or playground; or

12 (3) An elementary or secondary school, child care center or
13 playground is built or established within 2,500 feet of the person's
14 existing residence.

15 b. If a person who is subject to the prohibition set forth in
16 subsection a. of this section established a residence within the child
17 protection zone prior to the effective date of this act, the person
18 shall cease to reside with the child protection zone within 90 days
19 of the effective date of this act.

20
21 5. N.J.S.2C:14-2 is amended to read as follows:

22 2C:14-2. Sexual assault. a. An actor is guilty of aggravated
23 sexual assault if he commits an act of sexual penetration with
24 another person under any one of the following circumstances:

25 (1) The victim is less than 13 years old;

26 (2) The victim is at least 13 but less than 16 years old; and

27 (a) The actor is related to the victim by blood or affinity to the
28 third degree, or

29 (b) The actor has supervisory or disciplinary power over the
30 victim by virtue of the actor's legal, professional, or occupational
31 status, or

32 (c) The actor is a resource family parent, a guardian, or stands in
33 loco parentis within the household;

34 (3) The act is committed during the commission, or attempted
35 commission, whether alone or with one or more other persons, of
36 robbery, kidnapping, homicide, aggravated assault on another,
37 burglary, arson or criminal escape;

38 (4) he actor is armed with a weapon or any object fashioned in
39 such a manner as to lead the victim to reasonably believe it to be a
40 weapon and threatens by word or gesture to use the weapon or
41 object;

42 (5) The actor is aided or abetted by one or more other persons
43 and the actor uses physical force or coercion;

44 (6) The actor uses physical force or coercion and severe personal
45 injury is sustained by the victim;

46 (7) The victim is one whom the actor knew or should have
47 known was physically helpless, mentally defective or mentally
48 incapacitated.

1 Aggravated sexual assault is a crime of the first degree.

2 Notwithstanding the provisions of any other law, a person
3 convicted under paragraph (1) or (2) of this subsection shall be
4 sentenced to a specific term of years which shall be fixed by the
5 court and shall be between 25 years and life imprisonment of which
6 the person must serve 25 years before being eligible for parole. A
7 person convicted under paragraph (3), (4), (5), (6) or (7) where the
8 victim was less than 18 years old shall be sentenced to a specific
9 term of years which shall be fixed by the court and shall be between
10 25 years and life imprisonment of which the person must serve 25
11 years before being eligible for parole.

12 b. An actor is guilty of sexual assault if he commits an act of
13 sexual contact with a victim who is less than 13 years old and the
14 actor is at least four years older than the victim.

15 c. An actor is guilty of sexual assault if he commits an act of
16 sexual penetration with another person under any one of the
17 following circumstances:

18 (1) The actor uses physical force or coercion, but the victim does
19 not sustain severe personal injury;

20 (2) The victim is on probation or parole, or is detained in a
21 hospital, prison or other institution and the actor has supervisory or
22 disciplinary power over the victim by virtue of the actor's legal,
23 professional or occupational status;

24 (3) The victim is at least 16 but less than 18 years old and:

25 (a) The actor is related to the victim by blood or affinity to the
26 third degree; or

27 (b) The actor has supervisory or disciplinary power of any nature
28 or in any capacity over the victim; or

29 (c) The actor is a resource family parent, a guardian, or stands in
30 loco parentis within the household;

31 (4) The victim is at least 13 but less than 16 years old and the
32 actor is at least four years older than the victim.

33 Sexual assault is a crime of the second degree.

34 If the victim of an offense committed pursuant to paragraph (1)
35 or paragraph (2) of this subsection is less than 18 years old, sexual
36 assault is a crime of the first degree and a person convicted of such
37 offense shall be sentenced to a specific term of years which shall be
38 fixed by the court and shall be between 25 years and life
39 imprisonment of which the person must serve 25 years before being
40 eligible for parole.

41 (cf: P.L.2004, c.130, s.13)

42

43 6. N.J.S.2C:29-3 is amended to read as follows:

44 2C:29-3. Hindering Apprehension or Prosecution.

45 a. A person commits an offense if, with purpose to hinder the
46 detention, apprehension, investigation, prosecution, conviction or
47 punishment of another for an offense or violation of Title 39 of the
48 New Jersey Statutes or a violation of chapter 33A of Title 17 of the

1 Revised Statutes he:

2 (1) Harbors or conceals the other;

3 (2) Provides or aids in providing a weapon, money,
4 transportation, disguise or other means of avoiding discovery or
5 apprehension or effecting escape;

6 (3) Suppresses, by way of concealment or destruction, any
7 evidence of the crime, or tampers with a witness, informant,
8 document or other source of information, regardless of its
9 admissibility in evidence, which might aid in the discovery or
10 apprehension of such person or in the lodging of a charge against
11 him;

12 (4) Warns the other of impending discovery or apprehension,
13 except that this paragraph does not apply to a warning given in
14 connection with an effort to bring another into compliance with
15 law;

16 (5) Prevents or obstructs, by means of force, intimidation or
17 deception, anyone from performing an act which might aid in the
18 discovery or apprehension of such person or in the lodging of a
19 charge against him;

20 (6) Aids such person to protect or expeditiously profit from an
21 advantage derived from such crime; or

22 (7) Gives false information to a law enforcement officer or a
23 civil State investigator assigned to the Office of the Insurance Fraud
24 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-
25 16).

26 【The】 (a) Except as provided in subparagraph (b) of this
27 paragraph, the offense is a crime of the third degree if the conduct
28 which the actor knows has been charged or is liable to be charged
29 against the person aided would constitute a crime of the second
30 degree or greater, unless the actor is a spouse, parent or child of the
31 person aided, in which case the offense is a crime of the fourth
32 degree. The offense is a crime of the fourth degree if such conduct
33 would constitute a crime of the third degree. Otherwise it is a
34 disorderly persons offense.

35 (b) The offense is a crime of the third degree and the actor shall
36 be sentenced to a minimum term of imprisonment of two years
37 without eligibility for parole if the actor harbored or concealed a
38 person who has been convicted, adjudicated delinquent or found not
39 guilty by reason of insanity for the commission of a sex offense. As
40 used in this subparagraph, "sex offense" has the meaning as defined
41 in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2).

42 b. A person commits an offense if, with purpose to hinder his
43 own detention, apprehension, investigation, prosecution, conviction
44 or punishment for an offense or violation of Title 39 of the New
45 Jersey Statutes or a violation of chapter 33A of Title 17 of the
46 Revised Statutes, he:

47 (1) Suppresses, by way of concealment or destruction, any
48 evidence of the crime or tampers with a document or other source of

1 information, regardless of its admissibility in evidence, which might
2 aid in his discovery or apprehension or in the lodging of a charge
3 against him; or

4 (2) Prevents or obstructs by means of force or intimidation
5 anyone from performing an act which might aid in his discovery or
6 apprehension or in the lodging of a charge against him; or

7 (3) Prevents or obstructs by means of force, intimidation or
8 deception any witness or informant from providing testimony or
9 information, regardless of its admissibility, which might aid in his
10 discovery or apprehension or in the lodging of a charge against him;
11 or

12 (4) Gives false information to a law enforcement officer or a
13 civil State investigator assigned to the Office of the Insurance Fraud
14 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-
15 16).

16 The offense is a crime of the third degree if the conduct which
17 the actor knows has been charged or is liable to be charged against
18 him would constitute a crime of the second degree or greater. The
19 offense is a crime of the fourth degree if such conduct would
20 constitute a crime of the third degree. Otherwise it is a disorderly
21 persons offense.

22 (cf: P.L.1999, c.297, s.1)

23
24 7. This act shall take effect on the first day of the sixth month
25 after enactment.

26 27 28 STATEMENT

29
30 This bill, the "Jessica Lunsford Act," revises the sentencing of
31 certain sex offenders and persons who harbor them, requires
32 electronic monitoring for certain sex offenders and creates child
33 protection zones.

34 The bill requires electronic monitoring for sex offenders who
35 prey on minors if the offender has been released on bail or from
36 incarceration.

37 The bill requires the Administrative Director of the Courts to
38 establish and implement an electronic monitoring system utilizing
39 global positioning system technology for persons who have been
40 charged with a sex offense as defined in Megan's Law where the
41 victim is under 18 years of age. The monitoring requirement is to
42 be imposed by the judge at the time that bail is imposed, and the
43 person would be subject to the requirement until he is acquitted of
44 or incarcerated for the sex offense.

45 The bill also requires the Chairman of the State Parole Board
46 also to establish and implement such a system for sex offenders
47 whose victim was under 18 years of age. The system is to provide
48 for lifetime tracking of such offenders upon their release from

1 incarceration.

2 A person who fails to comply with the requirements of the
3 electronic monitoring system would be guilty of a crime of the third
4 degree, which is punishable by three to five years in prison, a fine
5 of up to \$15,000, or both.

6 Additionally, this bill expands Megan's Law to restrict sex
7 offenders from residing in areas frequented by children.

8 The bill establishes child protection zones by making it a crime
9 of the fourth degree for a sex offender whose risk of re-offense has
10 been assessed as high to reside within 2,500 feet of an elementary
11 or secondary school, playground or child care center. The
12 residential ban would not cover a sex offender that resides at a
13 prison or mental health facility within 2,500 feet of an elementary
14 or secondary school, playground or child care center; or a sex
15 offender that has a school, playground or child care center
16 established or built within 2,500 feet of his existing residence. A
17 sex offender that resides at a residence established before the bill's
18 enactment within the zone would be required to move within 90
19 days of the bill's effective date.

20 This bill also imposes increased penalties on persons who
21 commit sex crimes against minors. Under the bill, a person
22 convicted of aggravated sexual assault of a minor under the age of
23 18 or the new crime of first degree sexual assault of a minor under
24 the age of 18 would be sentenced to a specific term of years fixed
25 by the court which would be between 25 years and life
26 imprisonment, of which the person must serve 25 years before
27 being eligible for parole.

28 Under current law, a person who commits an act of sexual
29 penetration with a victim under the age of 13 is guilty of aggravated
30 sexual assault, a crime of the first degree (punishable by a term of
31 imprisonment of 10 to 20 years, a fine of up to \$200,000, or both).
32 A person who commits an act of sexual penetration with a victim
33 who is at least 13 but less than 16 years old under certain specified
34 circumstances is also guilty of a crime of the first degree. A person
35 who commits an act of sexual penetration with a victim who is at
36 least 16 but less than 18 under certain circumstances is guilty of
37 sexual assault, a crime of the second degree (punishable by a term
38 of imprisonment of five to 10 years, a fine of up to \$150,000, or
39 both). Under the bill, all of these acts would be punishable as
40 crimes of the first degree, with terms of imprisonment of 25 years
41 to life.

42 The bill also increases the penalties for harboring or concealing a
43 sex offender. Under the bill, a violation of N.J.S.2C:29-3,
44 Hindering Apprehension or Prosecution, would constitute a crime
45 of the third degree with a mandatory minimum term of two years
46 without eligibility for parole if the person harbored or concealed a
47 person who has been convicted, adjudicated delinquent or found not
48 guilty by reason of insanity for the commission of a sex offense.

S294 ALLEN, OROHO

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1 This bill is named for Jessica Lunsford, the Florida girl who was
2 sexually assaulted and murdered by a sex offender, and is modeled
3 on legislation which was recently enacted by the State of Florida.